

Jamie Wright, J.D., Chair
Panel A

1 KAMALA D. HARRIS
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Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-003208

12 **GUY L. DISIBIO, M.D.**

OAH No. 2016050514

13 1371 Sherman Ave
14 Menlo Park, CA 94025-6013

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate No. A 89904,

16 Respondent.

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
21 Board of California, Department of Consumer Affairs ("Board"). She brought this action solely
22 in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
23 the State of California, by John S. Gatschet, Deputy Attorney General.

24 2. Respondent Guy L. Disibio, M.D. ("Respondent") is represented in this proceeding
25 by attorney John Quincy Brown, III, whose address is:

26 John Quincy Brown, III
27 Hardy, Erich, Brown & Wilson
1000 G Street, Suite 200
28 Sacramento, CA 95814

1 3. On or about January 21, 2005, the Medical Board of California issued Physician's
2 and Surgeon's Certificate No. A 89904 to Guy L. Disibio, M.D. ("Respondent"). The Physician's
3 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
4 in Accusation No. 800-2014-003208, and will expire on November 30, 2016, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2014-003208 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on March 14, 2016. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2014-003208 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2014-003208. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2014-003208, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2014-003208 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 89904 issued to Respondent Guy L. Disibio, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions.

EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MONITORING - PRACTICE. This term shall remain in abeyance so long as Respondent does not practice Clinical Pathology as set forth in the Practice Restriction entitled PROHIBITED PRACTICE contained in this stipulated settlement. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of

1 practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring
2 costs.

3 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
4 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
5 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
6 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
7 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
8 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
9 signed statement for approval by the Board or its designee.

10 Within 60 calendar days of the effective date of this Decision, and continuing throughout
11 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
12 make all records available for immediate inspection and copying on the premises by the monitor
13 at all times during business hours and shall retain the records for the entire term of probation.

14 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
15 date of this Decision, Respondent shall receive a notification from the Board or its designee to
16 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
17 shall cease the practice of medicine until a monitor is approved to provide monitoring
18 responsibility.

19 The monitor(s) shall submit a quarterly written report to the Board or its designee which
20 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
21 are within the standards of practice of practice and whether Respondent is practicing medicine
22 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
23 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
24 preceding quarter.

25 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
26 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
27 name and qualifications of a replacement monitor who will be assuming that responsibility within
28 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60

1 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
2 notification from the Board or its designee to cease the practice of medicine within three (3)
3 calendar days after being so notified Respondent shall cease the practice of medicine until a
4 replacement monitor is approved and assumes monitoring responsibility.

5 In lieu of a monitor, Respondent may participate in a professional enhancement program
6 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
7 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
8 chart review, semi-annual practice assessment, and semi-annual review of professional growth
9 and education. Respondent shall participate in the professional enhancement program at
10 Respondent's expense during the term of probation.

11 As noted above, this term shall remain in abeyance so long as Respondent does not
12 practice Clinical Pathology as set forth in the Practice Restriction entitled PROHIBITED
13 PRACTICE contained in this stipulated settlement. Should Respondent apply to the Medical
14 Board in writing to begin practicing Clinical Pathology pursuant to the terms of the Practice
15 Restriction, this term shall be given full force and effect and Respondent shall have 30 days to
16 submit to the Board or its designee for prior approval as a practice monitor(s), the name and
17 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in
18 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.
19 A monitor shall have no prior or current business or personal relationship with Respondent, or
20 other relationship that could reasonably be expected to compromise the ability of the monitor to
21 render fair and unbiased reports to the Board, including but not limited to any form of bartering,
22 shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor.
23 Respondent shall pay all monitoring costs.

24 3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
25 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
26 where: 1) Respondent merely shares office space with another physician but is not affiliated for
27 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
28 location.

1 If Respondent fails to establish a practice with another physician or secure employment in
2 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
3 Respondent shall receive a notification from the Board or its designee to cease the practice of
4 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
5 practice until an appropriate practice setting is established.

6 If, during the course of the probation, the Respondent's practice setting changes and the
7 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
8 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
9 Respondent fails to establish a practice with another physician or secure employment in an
10 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
11 shall receive a notification from the Board or its designee to cease the practice of medicine within
12 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
13 appropriate practice setting is established.

14 4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
15 practicing Clinical Pathology. Clinical Pathology is defined as the diagnosis of disease in patients
16 based on the laboratory analysis of bodily fluids or tissues. This restriction shall not prevent
17 Respondent from performing research or teaching at an educational facility so long as Respondent
18 is not diagnosing patients.

19 Respondent may apply in writing to the Medical Board to have this term held in abeyance
20 during his period of probation. Before the Medical Board, in its sole discretion, determines
21 whether to hold the Prohibited Practice term in abeyance, the Respondent shall submit a plan to
22 be proctored on 50 clinical pathology cases and provide the name of a clinical proctor and
23 practice monitor. The clinical proctor may be the same person as the practice monitor. The
24 clinical proctor must have no prior or current business or personal relationship with Respondent,
25 or other relationship that could reasonably be expected to compromise the ability of the clinical
26 proctor to render fair and unbiased reports to the Board, including but not limited to any form of
27 bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's
28 clinical proctor. Respondent shall pay all proctoring costs.

1 Upon approval of Respondent's plan, the Board, in its sole discretion may allow
2 Respondent to move forward with his clinical proctoring plan. The clinical proctor shall submit a
3 report to the Board detailing his review of the fifty cases, how Respondent performed on the fifty
4 cases, and whether or not Respondent is safe to practice based on the clinical proctor's review of
5 the fifty cases. The Board, in its sole discretion, shall then decide whether to hold the Prohibited
6 Practice term in abeyance for the remaining years of Respondent's probation.

7 The Prohibited Practice term shall not prevent Respondent from practicing in order to be
8 proctored while he remains under a practice monitor.

9 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
10 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
11 Chief Executive Officer at every hospital where privileges or membership are extended to
12 Respondent, at any other facility where Respondent engages in the practice of medicine,
13 including all physician and locum tenens registries or other similar agencies, and to the Chief
14 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
15 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
16 calendar days.

17 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

18 6. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
19 prohibited from supervising physician assistants.

20 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
21 governing the practice of medicine in California and remain in full compliance with any court
22 ordered criminal probation, payments, and other orders.

23 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
24 under penalty of perjury on forms provided by the Board, stating whether there has been
25 compliance with all the conditions of probation.

26 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
27 of the preceding quarter.

28 9. GENERAL PROBATION REQUIREMENTS.

1 Compliance with Probation Unit

2 Respondent shall comply with the Board's probation unit and all terms and conditions of
3 this Decision.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice
22 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
23 departure and return.

24 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

27 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine in California as defined in
3 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
4 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
5 time spent in an intensive training program which has been approved by the Board or its designee
6 shall not be considered non-practice. Practicing medicine in another state of the United States or
7 Federal jurisdiction while on probation with the medical licensing authority of that state or
8 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
9 not be considered as a period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
11 months, Respondent shall successfully complete a clinical training program that meets the criteria
12 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
13 Disciplinary Guidelines" prior to resuming the practice of medicine.

14 Respondent's period of non-practice while on probation shall not exceed two (2) years.

15 Periods of non-practice will not apply to the reduction of the probationary term.

16 Periods of non-practice will relieve Respondent of the responsibility to comply with the
17 probationary terms and conditions with the exception of this condition and the following terms
18 and conditions of probation: Obey All Laws; and General Probation Requirements.

19 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
20 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
21 completion of probation. Upon successful completion of probation, Respondent's certificate shall
22 be fully restored.

23 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
24 of probation is a violation of probation. If Respondent violates probation in any respect, the
25 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
26 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
27 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
28 continuing jurisdiction until the matter is final, and the period of probation shall be extended until

1 the matter is final.

2 14. LICENSE SURRENDER. Following the effective date of this Decision, if
3 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
4 the terms and conditions of probation, Respondent may request to surrender his or her license.
5 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
6 determining whether or not to grant the request, or to take any other action deemed appropriate
7 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
8 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
9 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
10 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
11 application shall be treated as a petition for reinstatement of a revoked certificate.

12 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
13 with probation monitoring each and every year of probation, as designated by the Board, which
14 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
15 California and delivered to the Board or its designee no later than January 31 of each calendar
16 year.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, John Quincy Brown, III. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 9/25/16

GUY L. DISIBIO, M.D.
Respondent

10 I have read and fully discussed with Respondent Guy L. Disibio, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 9.26.16

JOHN QUINCY BROWN, III
Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 Dated:

Respectfully submitted,

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21 /26/16
KAMALA D. HARRIS
Attorney General of California
VLADIMIR SMALKEVICH
Acting Supervising Deputy Attorney
General

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JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2014-003208

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JOHN S. GATSCHE
Deputy Attorney General
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7 Facsimile: (916) 327-2247
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Mar. 14* 20 *16*
BY *[Signature]* ANALYST

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-003208

12 **Guy L. Disibio, M.D.**
13 1371 Sherman Ave
14 Menlo Park, CA 94025-6013

A C C U S A T I O N

15 Physician's and Surgeon's Certificate No. A 89904,

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs ("Board").

22 2. On or about January 21, 2005, the Board issued Physician's and Surgeon's Certificate
23 Number A 89904 to Guy L. Disibio, M.D. ("Respondent"). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will
25 expire on November 30, 2016, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Board deems proper.

5 5. Section 2234 of the Code, states:

6 “The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
8 limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter.

11 “..

12 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
13 omissions. An initial negligent act or omission followed by a separate and distinct departure from
14 the applicable standard of care shall constitute repeated negligent acts.

15 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
16 for that negligent diagnosis of the patient shall constitute a single negligent act.

17 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
18 constitutes the negligent act described in paragraph (1), including, but not limited to, a
19 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
20 applicable standard of care, each departure constitutes a separate and distinct breach of the
21 standard of care.

22 “...”

23 **CAUSE FOR DISCIPLINE**

24 **(Repeated Negligent Acts)**

25 6. Respondent's license is subject to disciplinary action under section 2234, subdivision
26 (c) of the Code, in that he committed repeated negligent acts. The circumstances are as follows:

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Patient A¹

7. On January 24, 2012, Patient A presented at the emergency department with complaints of intermittent right sided abdominal pain. An ultrasound examination of Patient A's pelvis was performed which revealed a large complex lobulated mass in the right adnexa. Based on the imaging, it was believed that Patient A had a probable dermoid cyst with possible rupture. On January 25, 2012, Patient A underwent surgery to remove her right fallopian tube, right ovary, and the dermoid cyst. The cyst was removed and it was noted by the surgeon that there was hair and a large piece of bone or cartilage encountered within the cyst. The right fallopian tube, right ovary, and dermoid cyst were sent to pathology.

8. On February 9, 2012, Respondent, a pathologist, reviewed the specimens and three slides, A1, A2, and A3 and provided a diagnosis that the removed ovary contained benign simple and follicle cysts. The surgeon questioned these findings based on the clinical presentation. On February 27, 2012, Respondent reviewed four additional slides, A4, A5, A6, and A7. Upon further review, Respondent amended his initial findings and made a diagnosis of a mature teratoma.

9. Respondent failed to initially review the pre-operative clinical impression of a dermoid cyst and failed to use appropriate gross and microscopic evaluation to rule in or rule out the clinical impression of dermoid cyst.

Patient D

10. In July 2013, a colonoscopy revealed that Patient D had an adenocarcinoma involving the sigmoid colon. A vaginal mass was also detected and biopsied which also revealed adenocarcinoma. Immunohistochemistry supported a vaginal primary. On October 8, 2013, Patient D underwent an exploratory laparotomy, lysis of adhesions, rectosigmoid colectomy with end-to-end anastomosis, proximal vaginectomy, and optimal tumor debulking. Specimens were collected and sent to pathology.

¹ Identifying information has been removed to protect the patients identity.

11. On or about October 10, 2013, Respondent received the specimens. Respondent failed to adequately document the original surgery in his pathology report or the importance of the primary cancer being in the vagina and its margins of resection. Respondent instead analyzed the specimens as if he were reviewing a primary sigmoid colon cancer when in fact the sigmoid colon was secondarily involved by direct extension. Respondent also failed to provide adequate microscopic description and failed to evaluate the vaginal margins.

12. On December 2, 2013, the specimens were reexamined by another pathologist after concerns were raised with Respondent's pathology report. The new pathologist examined six additional slides in order to properly evaluate the vaginal margins. The pathology report was amended to indicate a vaginal carcinoma.

13. Respondent incorrectly treated the matter as if it was a colon carcinoma rather than a vaginal carcinoma. Respondent failed to take adequate sampling, failed to take appropriate margins, and failed to correctly identify the main residual tumor. The patient's radiation therapy was delayed as a result of the misdiagnosis.

Patient F

14. On February 21, 2013, Patient F had biopsies of his eleventh, twelfth and thirteenth thoracic vertebrae to evaluate fractures. On or about March 2, 2013, Respondent reviewed the biopsies. Respondent provided a diagnosis of no malignancy. Respondent reviewed slides H and E in making his diagnosis. In July 2013, slides H and E were sent to an outside laboratory and the outside laboratory determined that the patient suffered from myeloma, a malignant tumor of the bone marrow. Further immunohistochemistry was conducted which confirmed the diagnosis of myeloma.

15. Respondent failed to recognize that a mid to elderly patient with vertebral fractures could be suffering from myeloma and failed to observe the findings on the slides that indicated the presence of myeloma.

Patient G

16. On January 7, 2014, Patient G underwent a needle core biopsy of her right breast and axillary lymph node. The biopsy was performed at three separate sites, multiple cores were obtained and the specimens were sent to pathology. On January 8, 2014, Respondent reviewed

1 the three specimens. Respondent provided a diagnosis that the three specimens did not contain
2 cancer.

3 17. Following Respondent's review, a second pathologist reviewed the slides and an
4 immunohistochemical stain was obtained which revealed the presence of cancer. On January 21,
5 2014, Respondent amended his report to show that cancer was present in two of the three samples
6 he had previously misdiagnosed.

7 18. Respondent failed to correctly diagnose cancer. Despite obvious evidence of cancer
8 in the lymph node sample, and similar cells present in the breast biopsy, Respondent failed to
9 properly diagnose cancer in the samples.

10 19. Respondent's actions represent negligent acts and provide cause for the discipline of
11 his license for the following reasons:

- 12 1. Failed to diagnose a mature teratoma in Patient A;
- 13 2. Failed to take an adequate sampling, failed to take appropriate margins, and failed
14 to correctly identify the main residual tumor as a vaginal cancer in Patient D;
- 15 3. Failed to diagnose myeloma in Patient F;
- 16 4. Failed to diagnose breast cancer in Patient G.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 89904, issued to Guy L. Disibio, M.D.;

2. Revoking, suspending or denying approval of Guy L. Disibio, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Guy L. Disibio, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: March 14, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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